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FF/6948

**AGREEMENT**

*Between*

**CITY OF UTICA, NEW YORK**

*and*

**LOCAL 32 INTERNATIONAL**

**ASSOCIATION OF FIRE FIGHTERS**

**A.F.L. - C.I.O. - C.L.C.**

**UTICA PROFESSIONAL FIRE FIGHTERS ASSOCIATION**

*for the period*

*April 1, 2007 through March 31, 2011*

**RECEIVED**  
NYS PUBLIC EMPLOYMENT  
RELATIONS BOARD

DEC 14 2010

**ADMINISTRATION**

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This Agreement, entered into this \_\_\_\_ day of August, 2008 by the City of Utica, New York (hereinafter referred to as the CITY) and Local 32, International Association of Fire Fighters, A.F.O.-C.I.O.-C.L.C., Utica Professional Fire Fighters Association (hereinafter referred to as the ASSOCIATION).

**ARTICLE I**  
**ASSOCIATION RECOGNITION AND CHECK-OFF**

Section 1. The CITY recognizes the ASSOCIATION as the sole bargaining agent for all City Employees assigned to the Bureau of Fire Department of Public Safety, except for the Fire Chief.

Section 2. The CITY agrees that no member of the ASSOCIATION shall be discriminated against, coerced or influenced in any way or manner because of his membership in the ASSOCIATION or by reason of his being an officer of the ASSOCIATION.

Section 3. The ASSOCIATION hereby agrees to and affirms the provisions of Section 207, paragraph 3, of the Public Employees Fair Employment Act (so called Taylor Act) to the effect that it does not assert the right to strike against the City, directly or indirectly, nor to assist or participate in any such strike or to impose an obligation to conduct, assist, or participate in any such strike directly or indirectly.

Section 4. The CITY, upon receipt of a duly executed dues deduction authorization, agrees to deduct from the second payroll of each month, following the signing of this Agreement, all ASSOCIATION assessments from all Bureau of Fire Personnel who have executed a dues deduction authorization and forward said monies to the Treasurer of the ASSOCIATION together with a list of payees. If a membership dues deduction authorization is not received, the CITY will deduct an agency fee equivalent to the amount of the dues certified by the ASSOCIATION to the CITY.

## ARTICLE II

### WORK SCHEDULES, HOURS AND VACANCIES

#### Section 1. Line Firefighters Division

All members of the Bureau of Fire whose daily duty is the actual extinguishing of a fire and the accomplishment of rescue shall be members of this division.

A. If the complement of Fire Fighters falls below that established by law, then the employer must fill vacancies from an established Civil Service list. All firefighter vacancies must be filled when the total number of vacancies is five (5). Vacancies will be filled with fewer than five (5) vacant positions if the Department conducts an in-house training program with outside departments providing trainees in the training program. It is the intent of this section to fill vacancies only when it is practicable for the Department to conduct an in-house training program.

B. All Officer vacancies shall be filled within thirty (30) days of the date of occurrence provided a valid promotional list is in effect. If Officer vacancies are not filled within thirty (30) days (and there is a valid eligible list in effect), the member ultimately receiving the promotion will have his promotion effective from the thirty (30) day mark and shall receive any back pay and benefits retroactive to that date.

C. The City shall regularly schedule Fire Fighter entrance exams, but shall never go longer than four (4) years without a Fire Fighter entrance exam and shall maintain an active certified list for appointment to the position of Fire Fighter. The City shall schedule promotional exams at least every four (4) years.

#### Section 2. Fire Dispatchers Division.

A. Dispatch duties can be filled by bargaining unit or non-bargaining unit staff.

B. When bargaining unit personnel work dispatch duties, the shift will be eight (8) hours (8:00 a.m. to 4:00 p.m.; 4:00 p.m. to Midnight; Midnight to 8:00 a.m.).

C. Members who are receiving benefits pursuant to Section 207-a of the General Municipal Law may be assigned to the switchboard as part of a light duty assignment. Members who cannot work full duty because of a non-job-related injury or illness may be assigned to the switchboard with the agreement of the Department.

D. Except in the case of an emergency, all members who are fit for full duty can be assigned to the switchboard on a call-back (straight time, 212 hr., 28 day) basis only.

Section 3. Day and Civilian Division.

Day and Civilian employees of the Bureau of Fire shall work an 8:00 a.m. to 4:30 p.m. daily schedule with an hour allowed for lunch, Monday through Friday, with days off when City Hall is officially closed.

Section 4.

All line Fire Fighters work a 24-hour schedule.

Section 5.

Personnel (Civilian or Line) assigned to the Mechanic Shop shall work a 7:00 a.m. to 3:30 p.m. daily schedule with one (1) hour allowed for lunch, Monday through Friday. Holidays will be observed when City Hall is officially closed.

**ARTICLE III**  
**LEAVES OF ABSENCE**

Section 1. Sick Leave.

A. Any member of the Bureau of Fire who, while off duty, suffers an illness or sustains a disabling injury, shall notify the Deputy Chief and his company officers and the man in charge of his company, at least one hour before the required time to report for duty, of the nature of the illness or injury and the name of the attending physician, if any. If such notice is

not given, the members shall be considered tardy in reporting to work. If the illness or injury is an emergency, the one hour notice to the company officer or the man in charge of the company is waived and notice shall be given as soon as practical. The member shall make the notification personally, or if unable to do so, cause it to be made by a responsible person.

If any member of the Bureau of Fire is absent for more than three (3) consecutive days due to illness or injury, a doctor's statement from the attending physician indicating the nature of the illness or injury will be required.

B. Whenever a member of this ASSOCIATION or his attending physician reports that a member is sick or disabled, the Fire Surgeon may be notified by the Bureau of Fire and he may examine the sick or disabled member as soon after notification as possible, either at the member's home or at the surgeon's office, at the City's expense, notwithstanding the fact that said member may have already been examined or already be under the care of his own physician. If examination is not feasible, the Fire Surgeon may immediately contact the member to determine the nature of the illness or injury.

C. Following examination or contact with said member, the Fire Surgeon shall certify to the Fire Chief his judgment and medical opinion of the member's fitness for duty and outline any limitations of said duty, if any, which should be imposed upon the member's activities while sick or disabled. No member shall be ordered to return to duty in any capacity while on sick leave.

D. A member may call off of sick leave at any time but must notify the Deputy Chief and commanding officers at least one hour prior to regular tour of duty.

E. If the member is certified by the Fire Surgeon as unfit for normal duty, he shall not engage in any other employment outside the Bureau of Fire during the period of unfitness.



F. If the member desires to undertake activities not permitted by the Fire Surgeon's certificate, he must first obtain the express consent of the Fire Surgeon.

G. If the member's non-service connected illness or injury is of such a nature that he is unfit to perform his normal duty, he shall not engage in any other employment outside the Bureau of Fire during the period of unfitness.

H. The preceding paragraphs shall also apply when a member becomes sick or injured while on duty, as set forth in Section 207-a of the General Municipal Law of the State of New York.

I. Sick leave for line Fire Fighters, civilian employees and dispatchers, within the ASSOCIATION, shall accumulate on the basis of 1-1/4 days per month to a maximum accumulation of 300 days. Said time shall be expended by the days actually off duty because of illness or injury. Sick days shall be considered for this purpose, as 24-hour days for day workers. All employees in the bargaining unit that are hired on or after February 24, 2000, shall earn sick leave at the rate of one and one-quarter (1-1/4) eight (8) hour days per month or a total of ten (10) hours per month. Effective April 1, 2008, all employees in the bargaining unit that were hired on or after February 24, 2000 shall earn sick leave at the rate of one and one-half (1 1/2) eight hour days per month or a total of twelve (12) hours per month.

J. Service connected injuries or illness and time actually spent in hospitals shall not be charged against accumulated sick leave; regularly scheduled compensatory days shall not be charged against accumulated sick leave. Members shall be paid back for any vacation days lost during a member's illness as soon as possible after such member returns to duty. If illness occurs during a member's vacation period, the City shall not be responsible for any payment of such vacation days.

K. All members entering the Department shall be credited upon appointment with fifteen (15) days sick leave for use during the first year of their employment. The fifteen (15) days credited are an advance of first year accruals.

L. Any member of the Bureau of Fire shall be granted time off with pay when a personal emergency arises, while on duty to consult with a doctor and/or dentist. Such member shall return to duty immediately upon release of such emergency.

M. All references to the Fire Surgeon include the right of the City or the Fire Surgeon to designate other or additional physicians or medical designee to examine the sick or disabled fire fighter, at the City's expense.

Section 2. Bereavement Leave

A. Bereavement leave shall be granted in the case of death of a spouse, child, mother, father, sister, sister's spouse, brother, brother's spouse, mother-in-law, father-in-law, grandparent, grandchild, spouse's brother or spouse's sister, providing that the member is living with their spouse at the time of death of any such member of their spouse's relatives. Leave shall also be granted in the event of death of a foster or step relative, who is in the same relationship with the member as the direct relative listed above.

B. Bereavement leave shall normally be for three (3) eight (8) hour tours of duty, or one (1) twenty-four (24) hour tour of duty, but may be extended by application to and written approval from either the Commissioner of Public Safety or the Fire Chief. Where circumstances dictate additional time may be granted by the Commissioner or the Chief.

C. Any member of the Bureau of Fire shall be granted up to eight (8) hours of bereavement leave for the day of the funeral of a blood relative not covered by the provisions of the preceding paragraphs. The actual leave time granted shall be determined in each individual case by the Fire Chief, or the Fire Chief's designee.

Section 3.      Emergency Leave.

A.      Emergency leave shall be granted during a member's tour of duty in the event of an unexpected serious illness of his wife, child, father, mother, brother, sister, mother-in-law, or father-in-law. The member shall make every effort to return to duty as soon as possible.

B.      The Chief or his duly appointed designee may release a member from duty to attend to other emergency situations not specified in paragraph A above. The member may be required to pay back this time. The member shall make every effort to return to duty as soon as possible.

Section 4.      Election Leave.

Every member on duty on any election day where the polls do not open at 6:00 a.m., shall be granted reasonable leave time in order to vote.

Section 5.      Personal "Man for Man" Leave Shall Continue.

(1)      Such leaves shall be submitted to the Deputy Chief at least twenty-four (24) hours in advance, except in the case of an emergency.

(2)      Line Deputy Chiefs shall be in control of their own leave.

(3)      Relief of duty members will be permitted at 7:00 a.m., when relieved with the permission of the Commanding officer.

Section 6.      Personal Leave Days.

All members of the day and civilian division shall receive two non-cumulative personal leave days annually.

Section 7.      Association Business Leave.

A.      Leaves of absences with pay shall be granted to the top four officers of the ASSOCIATION when on ASSOCIATION business as follows:

(1) Official ASSOCIATION business meetings and any special meetings -- two men up to three hours -- not to exceed twelve meetings per year.

(2) Labor management committee meetings and meetings with the Chief and/or Commissioner of Public Safety and/or the Mayor of the CITY as necessary.

(3) The annual New York State Professional Fire Fighters Association Convention, one New York State Professional Fire Fighters Association Legislative Seminar per year, and the biannual International Association of Fire Fighters Convention (delegate strength).

(4) Leaves of absence with pay shall be granted to the President and one (1) designee of the Association to attend New York State Professional Firefighter's Association -- District 2 meetings (not to exceed four meetings per year).

(5) The President of the ASSOCIATION shall be granted time off with pay to attend Central New York Labor Council and the New York State AFL-CIO meetings, regular or special, and their Conferences, Seminars and Conventions, whenever manpower is available to relieve him.

B. The CITY agrees that the top four Officers of the Association will not be assigned to the same platoon (up to three may be assigned to the same platoon).

C. The President of the ASSOCIATION and/or his appointees shall be entitled to release time with pay to attend any legitimate business not mentioned above upon the necessary approval of the Fire Chief or Chief Officer and such approval will not be unreasonably withheld.

D. The CITY agrees to provide leave time from duty with pay to any one member of the ASSOCIATION who is elected to any office in the New York state Professional Fire Fighters Association or the International Association of Fire Fighters, to carry out the duties of his office.

Section 8. Education Leave.

Upon adequate notice and without loss of pay, departmental leaves shall be granted to any member of the Bureau of Fire covered by this Agreement for the furtherance of his education, knowledge and availability to perform his fire fighting duties at the discretion of the Commissioner of Public Safety.

Section 9. Maternity Leave.

Any female member of the Department shall be entitled to maternity leave for a period not to exceed three (3) months.

This leave shall be additional to any leave taken by the employee and said leave will be granted after a request is made in writing. This leave shall be without pay but all other benefits granted under this Contract shall remain in full force and effect during this period.

Section 10. Jury and Court Leave.

A. Any member required to appear for jury duty shall be granted leave with pay on their regularly scheduled work day(s) for the time required to fulfill the obligations as a juror.

B. Any member required to appear in court for any reason related to the performance of duties shall be granted leave with pay for the required court time if they are on duty during the appearance.

**ARTICLE IV**  
**SALARIES AND OTHER BENEFITS**

Section 1. Salaries.

A. The base salaries for the duration of this Agreement shall be as follows:

(1) All members of the bargaining unit shall receive a 2.0% increase in salary effective April 1, 2007.

(2) All members of the bargaining unit shall receive a 2.0% increase in salary effective April 1, 2008.

(3) All members of the bargaining unit shall receive a 2.0% increase in salary effective April 1, 2009.

(4) All members of the bargaining unit shall receive a 2.0% increase in salary effective April 1, 2010.

**B. EMERGENCY MEDICAL TECHNICIAN AND PARAMEDIC STIPEND**

Paragraphs 1, 2 and 3 of this section apply only to Firefighters hired on or after April 1, 2002.

1. Firefighters will be required to obtain paramedic certification within three (3) years of their date of hire provided that the City is able to enroll (actual attendance at a program) then in a certified paramedic program within one (1) year of their date of hire. If the City is unable to enroll them in such a program within one (1) year of their date of hire, then the three (3) years will be extended to four (4) years. If the City is unable to enroll the newly hired firefighter in a program within two (2) years of their initial appointment, then the four (4) years will be extended to five (5) years. Firefighters will not move past Firefighter Step 1 salary level if they are enrolled in a paramedic program prior to their first anniversary date. Step movement in that case will occur only after paramedic certification is achieved and movement will be to the appropriate salary step based upon their total service with no retroactivity. If the City is unable to secure a paramedic program for a firefighter within one (1) year of the date of his appointment, he shall move to Step 2 and will remain at that step until paramedic certification is achieved, at which point he shall move to the appropriate salary step based upon his total service without retroactivity. Step movement will occur each year so long as the City is unable to enroll a newly hired firefighter in a paramedic program. The firefighter will remain at whatever step they are in at the time of enrollment and will not move to the next step until having successfully completed paramedic certification.

2. A firefighter who fails to obtain paramedic certification as a result of going through a certified paramedic program and allowing for a retest in the event that the initial certification test is failed shall be terminated by the Department without recourse to the disciplinary procedure. The termination may occur when it is impossible as a matter of practicality and timing for the individual to complete this requirement.

3. After achieving paramedic certification a firefighter must maintain such certification for a minimum of ten (10) years. Failure to maintain said certification will result in loss of rank (if any) and reduction in salary to the firefighter step level the firefighter was in at time of paramedic certification and may result in additional disciplinary action. The firefighter will remain at the revised salary step until recertification is obtained, at which time they will move to the salary step they were in at the time they lost certification and if rank was lost as a result of losing certification, it will be restored and the individual will return to the salary step they were at at the time they lost rank.

4. Any certified Emergency Medical Technician I or II employed as of December 31, 2001, shall receive an additional \$300.00 per year, which shall be included in gross salary and be prorated from the time of certification.

5. Any certified Emergency Medical Technician III employed as of December 31, 2001, shall receive an additional \$600.00 per year, which shall be included in gross salary and be prorated from the time he receives his certification.

6. The City agrees to pay the cost of any mandated schooling, training, instruction or course incurred in obtaining or renewing the certification for Emergency Medical Technician I, II, III or IV. Members who attend such certification instruction while on duty shall be released from work. Members who attend certification classes while not on duty will do so on their own time.

7. Effective January 1, 2002, it is contemplated that Rescue 1 will no longer be the sole ALS responder and the \$30.00 per day stipend for riding Rescue 1 shall cease so long as Rescue 1 or similar designated vehicle/apparatus is not the primary ALSO responder on a regular basis. If Rescue 1 or similar designated vehicle/apparatus is the primary ALS responder on a regular basis, the \$30.00 per day stipend for riding Rescue 1 or similar designated vehicle/apparatus will be effective. If the City has two (2) or more designated vehicle/apparatus designated as primary ALSO responders then the rate will not be utilized.

8. All members of the bargaining unit employed on or before March 31, 2002, who as of the execution date of this agreement are certified as an Emergency Medical Technician 4 (Paramedic) will receive an additional \$2,500.00 for each year that they maintain the certification. This stipend is available only to members of the bargaining unit who perform line firefighting functions. The stipend will be prorated and included in gross salary and be prorated from the time a member receives his certification. Effective January 1, 2006, members of the bargaining unit employed on or after April 1, 2002, who are certified as an Emergency Medical Technician 4 (Paramedic) and members of the bargaining unit employed on or before March 31, 2002 who thereafter become certified as Emergency Medical Technician 4 (Paramedic) shall receive a stipend of \$1,000, which will be prorated and shall be included in gross salary.

9. Any firefighter receiving a paramedic stipend who is on 207-a leave or sick leave for more than 60 calendar days will have the paramedic stipend suspended for the duration of their absence beyond 60 days, except that the stipend will be reinstated upon their return to work.

C. CODE ENFORCEMENT.

(1) If by March 31, 2007 the City has implemented a code enforcement fee program for at least 12 months, members shall receive a code enforcement stipend of \$500.00 annually, effective on April 1, 2007 to be paid as follows: \$250.00 in the first pay period in July and



\$250.00 in the first pay period in December in a separate check. The stipend shall be added to an employee's regular rate of pay for the purpose of calculating overtime.

(2) If the City enacts a Commercial Code Enforcement fee program ("City Code 1203") the code enforcement stipend described in Article IV, Section 1, paragraph c(1) shall be increased as follows: \$250 for a total of \$750 effective twelve months after the first commercial inspection.

**D. AMBULANCE SERVICE.**

(1) The parties agree that for the life of this agreement only, if the CITY implements an ambulance program, the daily minimum complement will be 24 bargaining unit members each day that the ambulance company(ies) is/are in service. The parties will agree on a call back procedure to provide any additional staffing for the ambulance company. That agreed upon call back procedure will be administered by the ASSOCIATION.

(2) Effective April 1, 2008, each member that is assigned to an ambulance on their regular non-call back duty day will receive a stipend of \$50 for each day (24 hours) so assigned.

**Section 2. Medical, Dental and Life Insurance.**

(a) Effective as soon as practicable, the CITY and the ASSOCIATION shall meet to consider options to replace the current UB-17X health insurance plan with plans that offer similar coverage.

(b) Effective as soon as practicable after April 1, 2008, bargaining unit members shall be eligible to participate in the following four health insurance plans with premium contributions as indicated:

(1) MVP Co-Plan 25/40 with a \$10/\$30/\$50 prescription drug card, student coverage to age 25, eyewear benefit rider (50%/\$75 max). No premium co-pay by employee. (Column 20 on Health Insurance Plan Option Spreadsheet)

(2) MVP Co-Plan 20+ with a \$5/\$20/\$40 prescription drug card, student coverage to age 25, eyewear benefit rider (50%/\$75 max). Employee shall pay 10% of the premium for this plan.

(3) Excellus OPTJ PPO with a \$20 co-pay and \$5/\$15/\$30 prescription drug card, student coverage to age 25. Employee shall pay 15% of the premium for this plan.

(4) UB17X Health Insurance Plan employee will pay 25% of the cost of this plan.—In the event the carrier discontinues the UB17X plan, the City is not obligated to replace the plan with an alternative plan and members participating in this plan will be allowed to migrate to other plans available under this agreement

(c) The City agrees that it shall permit current members of the bargaining unit and their spouses or family, if any, who retire from City of Utica Fire Department to continue coverage under the City's medical plan. The City will contribute 100% of the cost of coverage under the City's plan described in (b)(1) and the member and/or his spouse will contribute either 10%, 15% or 25% of the alternative plan selected as described in (b)(2), (b)(3), and (b)(4) as the case may be. The coverage shall continue until the member has attained the age of 65. In addition, coverage will also be provided to the spouse and minor children (if any) of the retired member. Coverage to the spouse will remain in effect until the spouse has attained the age of 65 years. If the member dies and the spouse remarries before age 65, coverage will terminate. Spousal independent coverage will be available utilizing the same formula for contributions that would have been in effect for the retired member had they not attained age 65 or were deceased. Any member of the bargaining unit who is eligible to retire but chooses to resign in order to transfer their service credit to another retirement system shall be entitled to this benefit.

(d) If a sworn member of the Department has rendered at least 18 years of service and dies while an active member of the Department, their widow or widower and minor children, if

any, will be entitled to health insurance provided by the City in the same manner and under the same provisions as if the firefighter was receiving a normal service retirement at the time of his death.

(e) The City will obtain MVP Dental Option 1 and Option 3 dental riders for family or individual coverage as determined by the health insurance carrier. The employee will be responsible for 15 % of the cost of the Option 3 Dental for family coverage only through payroll deduction. Coverage will be provided at no cost to the employee for employees that opt for coverage under Option 1 Family , Option 1 Individual or Option 3 Individual.

(f) The City shall have the right to change to different health insurance plans and dental insurance plans than the one described in paragraph 2 above, to the extent that another plan providing substantially similar coverage is more cost effective. Upon determination by the City that another plan is more cost effective, it shall give the Union ninety (90) days advance notice of such change and shall allow the Union to examine the new plan and present any arguments or objections to the City. The issue of whether or not a new plan is "substantially similar" is arbitrable at the request of the Union and the parties hereby designate Jeffrey Selchick, Esq. as the arbitrator to determine this issue if it is raised during the term of this agreement.

(g) Effective April 1, 2004, upon showing proof of alternative health insurance, an employee may opt out of coverage to which they are entitled to under this article and in lieu of such coverage the City will pay the employee in periodic payments according to which plan the employee has opted out from

Single Coverage	\$ 800.00 per year
Family Coverage	\$2,000.00 per year

(h) As soon as practicable, the City will implement a flexible benefit plan pursuant to Internal Revenue Code § 125 to the full extent permitted by law for unreimbursed medical and dependent care expenses.

(i) Life Insurance. If at any time during the life of this Agreement the CITY provides life insurance for any other city employee it will also be provided for the Bureau of Fire employees included within this Agreement in the like amount.

(j) Retiree Benefits. If a member on the payroll as of the date of ratification retires with an effective date on or before October 31, 2005, the member will receive a payment equal to \$500.00 for each year of service up to a maximum of 25 years of service. Said payment to be made on or before January 15, 2006.

### Section 3. Overtime

A. All overtime shall be paid on a monthly basis on the 2<sup>nd</sup> pay day of the month following the month in which it is earned.

B. All time worked by any member of the Bureau of Fire, covered by this Agreement in excess of their normal work week schedules shall be compensated as follows:

(1) Line Fire Fighters. All time worked in excess of a member's regular tour of duty shall be paid at a 40-hour per week factor.

(2) Day and Civilian Workers. All time worked in excess of their regularly scheduled work week, 37 ½ hours per week, shall be paid as overtime at 37 ½ hour per week rate factor.

C. All multiple alarm fire call-back shall be paid as follows:

(1) The Department may institute a "pager system" for all sworn personnel in order to effectuate a call back for multiple alarm fires. Members of the Department are not required to carry a pager and may opt in or opt out of the pager system at any time. The City is

authorized to develop policies and procedures with regard to the method of call back that will be utilized when pagers have been issued. Individuals assigned a pager will not be considered to be on standby for any purpose. If a member is called back under these circumstances, he shall receive the equivalent of four hours of straight time pay for the call back. In addition, he shall receive time and one-half for any time actually worked to the nearest quarter hour.

(2) Firefighters called back by telephone will be credited with four (4) hours overtime for all time worked up to two (2) hours and 40 minutes. All time worked after two (2) hours and 40 minutes shall be credited at time and one-half rate to the nearest quarter hour.

(3) Day and Civilian Workers -- Two Hours. Any time worked up to one hour and 20 minutes shall be credited as two hours overtime. All time after one hour and 20 minutes shall be credited at a time and one-half rate and the final determination as to how much time is involved shall be brought down to the nearest quarter hour.

(4) Mechanics, Signalmen and Fire Prevention Inspectors on "stand-by" time. When required to be on "stand-by" time, a man shall receive an automatic four hour time credit for each "stand-by" detail, only if called to duty, but in no event shall any individual receive more than four hours "stand-by" time in any 24 hour period, and in addition, all such members of the Bureau of Fire covered by this Agreement shall receive actual call-back overtime credit in addition to "stand-by" time.

D. All other call-backs shall be paid at regular rates.

E. If a man is held over thirty (30) minutes or less, he will be paid one (1) hour at his regular pay rate. After thirty (30) minutes, his time shall be computed at time and one-half.

F. It is agreed that employees returning from sick leave must notify the Deputy Chief and his commanding officer at least one hour prior to his return. Failure to notify will result in four hours loss of pay for the day returned.

Likewise, if a man called in for replacement duty is not notified at least 45 minutes prior to his scheduled reporting time of a cancellation of his call-back, he will be entitled to 4 hours pay.

Section 4.      Holiday - Pay

A.      All members of the Bargaining Unit shall be paid in moneys for 125 hours. Said moneys will be paid on the first payday in November at the November rate.

B.      All members included above shall receive upon their retirement holiday pay earned at 31.25 hours per calendar quarter.

C.      In addition, all uniform members of the Bargaining Unit who are detailed by the Fire Chief to duties other than line fire fighting, which are necessary for the proper functioning of the Bureau of Fire, shall also receive comparable holiday pay.

D.      All members of the Utica Bureau of Fire who are presently receiving benefits pursuant to Section 207-a of the General Municipal Law, or who will be recipients thereof, shall be entitled to the same holiday pay as set forth above.

Section 5.      "Out of Title Pay".

A.      When any employee of the Bureau of Fire covered by this Agreement is assigned from 8:00 a.m. to 6:00 p.m. and/or 6:00 p.m. to 8:00 a.m. to "out of title" work at a higher rank (i.e. Private to Lieut.; Capt. to Deputy Chief), he shall be compensated on a per diem basis at the salary rate of the higher rank and shall be paid in full on the 21<sup>st</sup> day of the month following the month it was earned.

B.      "Out of Title" work shall be offered to any member of the Utica Professional Fire Fighters Association who is on a promotional list and/or with nineteen years or more of service in order of seniority.

Section 6.      Vacations.

A. (1) Effective January 1, 2002, members of the bargaining unit who are hired on or after that day shall be governed by the following vacation schedule.

<u>YEARS IN BUREAU</u>	<u>DAY WORKER</u>	<u>LINE FIRE FIGHTER</u>
First Calendar Year	0 working days	0 working days
1 Year	3 working days	1 working day
2 Years	6 working days	2 working days
3 Years	9 working days	3 working days
4 Years	12 working days	4 working days
5 Years	15 working days	5 working days
6-10 Years	21 working days	7 working days
11-15 Years	24 working days	8 working days
16 - Retirement	27 working days	9 working days

(2) Effective January 1, 2009 the following provisions take effect:

YEARS IN BUREAU	DAY WORKER	LINE FF JAN-JUNE	LINE FF JULY-DEC
FIRST CALENDAR YEAR	3 WORKING DAYS	1 WORKING DAYS	0 WORKING DAYS
2 YEAR	3	2	1
3 YEAR	6	3	2
4 YEAR	9	4	3
5 YEAR	12	5	5
6 YEAR	15	7 (INC L 1)	6 (INC L 1)
7-10 YEAR	21	7	7
11-15 YEAR	24	8 (INC L 2)	8 (INC L 2)
16 – RET YEAR	27	9 (INC L 3)	9 (INC L 3)



(3) Members hired on or before January 1, 2002 shall be governed by the vacation schedule below:

<u>YEARS IN BUREAU</u>	<u>DAY WORKER</u>	<u>LINE FIRE FIGHTER</u>
	New members entering the bureau shall be credited with 1.75 vacation days per month or major portion thereof, from the date of appointment for the first year of service and such vacation shall be given during that initial year. After the first calendar year, the regular vacation schedule shall apply.	
2-5	18 working days	6 working days
6-10	21 working days	7 working days
11-15	24 working days	8 working days
16 – Retirement	27 working days	9 working days

(4) All line Fire Fighters covered by this Agreement shall receive at least one cycle of vacation between June 15<sup>th</sup> and September 15<sup>th</sup> each calendar year.

(5) Vacation time is earned during the previous calendar year worked. Seniority shall prevail on the choice of one vacation cycle.

(6) Any member of the Bureau of Fire covered by this Agreement who in any year enters a new longevity step in the period between January 1 and June 30 shall receive his vacation as if he had been in his new step on January 1. Any longevity step changes between July 1 and December 31 in any year shall be effective for vacation purposes during the next vacation period.

B. All members of the Bureau of Fire shall receive 15 days terminal leave with pay 15 days prior to his retirement date, providing he has 75 to 150 sick days leave credited to his account. If he has a full 150 days sick leave credited to his account, he shall receive one month terminal leave with pay one month prior to his retirement date.

C. If the vacation schedule of any member of the Bureau of Fire covered by this contract falls within the month immediately prior to his retirement, thereby making the employee eligible for both vacation (Art. IV, Sec. 6A) and terminal leave (Art. IV Sec. 6B) benefits, it is hereby agreed by and between the ASSOCIATION and the CITY that the employee will receive either terminal leave pay or vacation pay, whichever is greater, but in no event shall said employees receive both benefits at the same time.

D. Vacation time for day workers runs from January 1 to December 31 except when the Commissioner of Public Safety may extend the time over if needed.

Section 7. Pensions.

(a) The CITY shall continue to provide all members of the Bureau of Fire covered by this Agreement with all of the existing pension plans on a non-contributory basis.

(b) On or before October 1, 2008, the City will enact the necessary resolutions to provide for an improved retirement plan known as "384-e". Members of the bargaining unit will be allowed to enroll in such plan in accordance with the Rules and Procedures of the Policemen's and Firemen's Retirement System.

Section 8. Widow's Benefits.

The estate of the named beneficiary of any deceased member of the Bureau of Fire shall be paid for all unused vacation time, unused sick leave time, pursuant to Article VI, Section 15, accumulated overtime or unpaid holiday time.

Section 9. Dependent Parents.

The CITY and the ASSOCIATION mutually agree that they will jointly seek amendment of Ordinance No. 360 of 1967 to include the provisions of Section 208-C of the General Municipal Law.

Section 10. Gasoline and Mileage.

The CITY shall issue fifteen gallons of gasoline per week to members of the Bureau of Fire who use their private vehicles when required for Bureau of Fire business.

Section 11. City Buses.

If for any reason the Transit Authority refuses to allow members of the Bureau of Fire to use city buses at no expense when in uniform and on official department business, the CITY shall furnish Bureau of Fire members required to ride buses while on duty with fare:

Section 12. Replacement of Personal Property.

A. The CITY agrees that if any member of the Bureau of Fire while on duty sustains damage or destruction of his eyeglasses, said glasses shall be replaced with identical glasses as of the time of damage or breakage.

B. The CITY agrees to repair or replace dentures damaged or broken in the line of duty.

Section 13. Clothing Allowance

A. The CITY shall continue to furnish fatigue uniforms.

B. \$200.00 clothing allowance as provided for in Ordinance No. 557 of 19067 shall be furnished members of the Bureau of Fire that do not receive a fatigue uniform. Linemen and Mechanics will also receive a \$200.00 annual clothing allowance.

C. The CITY shall furnish a new regulation dress uniform to all new members of the Bureau of Fire.

D. The CITY shall furnish a new regulation dress uniform to all members of the Bureau of Fire who by reason of promotion are mandated to change their style of regulation dress uniforms.

E. The CITY shall provide all members of the Bureau of Fire with the following new equipment when required in the performance of their duties.

1. Fire Coat
2. Day Boots
3. Helmet
4. Eye Protectors
5. Winter and Summer Gloves
6. Winter Dress Coat for Fire Prevention

F. The CITY shall provide any special equipment required for fire fighting and shall replace worn out equipment as necessary.

G. The CITY may use used equipment if both parties agree and new equipment is on order.

Section 14. Clothing Maintenance.

A. Each member of the Bureau of Fire receiving the \$200.00 per year clothing allowance provided in Section 13-B of this Article, shall also receive from the CITY \$50.00 per year for clothing maintenance of his regulation dress uniform.

B. Each member of the Bureau of Fire not receiving the \$200.00 per year clothing allowance provided in Section 13-B of this Article, shall receive from the CITY \$30.00 per year for the cleaning and maintenance of his regulation dress uniform.

**ARTICLE V**  
**LABOR MANAGEMENT**

**Section 1.** Labor Management and Safety Committee.

A. The Labor Management Committee shall consist of the President of the ASSOCIATION and two additional members of the ASSOCIATION plus legal counsel, all chosen by the President of the ASSOCIATION. Also the Mayor, the Commissioner of Public Safety and two additional men of the Mayor's choosing.

B. The Safety Committee shall consist of the President of the ASSOCIATION and two additional members of the ASSOCIATION plus legal counsel, all chosen by the President of the ASSOCIATION. Also the Mayor, the Commissioner of Public Safety and two additional men of the Mayor's choosing.

**Section 2.** Meetings.

A. The Labor Management Committee shall meet at the call of either the President of the ASSOCIATION, Commissioner of Public Safety or the Mayor.

B. The Safety Committees shall meet at the call of either the President of the ASSOCIATION, Commissioner of Public Safety or the Mayor.

**Section 3.** Changes & Alterations in the "Book of Rules"

The CITY agrees that the proposed changes in the "Book of Rules" of the Bureau of Fire shall be submitted to the Labor Management Committee for review and recommendations and the proposed changes shall be effective only after being reduced to writing.

Section 4. Additional Agreements.

In the event the Labor Management Committee, after consultation, reaches agreement on any additions or amendments to this Agreement, such additions or agreements shall be reduced to writing, executed and added to this Agreement as Addendum paragraphs.

**ARTICLE VI**  
**GENERAL PROVISIONS**

Section 1. Identification Cards

Identification cards shall be furnished by the CITY to each member of the Bureau of Fire.

Section 2. Emergency and/or "Fill-In" Details.

A. Any member of the Bureau of Fire assigned to an emergency or "Fill-In" detail at an Engine House other than the one to which he is usually assigned shall be furnished transportation from his regular Engine House to the point of the emergency or "Fill-In" detail, upon request.

B. Any member assigned such detail shall be considered on duty at the time he reports to his regular location for his regular duty and is then assigned to the emergency or "Fill-In" detail.

C. Any member assigned to such emergency or "Fill-In" detail shall be allowed sufficient time on his way to said detail to arrange for food so that he shall be able to have his normal meals on said detail.

D. All members of the Bureau of Fire shall be given 14-hour notice prior to "Fill-In" detail except in cases of sickness or emergency leaves.

Section 3. Defense of Actions.

The CITY agrees to defend and pay any settlement, claims or judgments brought against or recovered against any member of the Bureau of Fire arising from the Bureau member's activities in the performance of duty only, including but not limited to, the operation of Bureau of Fire vehicles or apparatus, where such defense and payment is mandated as a CITY obligation by law.

Section 4. Riots and Conflagrations.

The CITY agrees that in the event of a riot or conflagration, members of the Bureau of Fire shall be provided with adequate relief, meals, sleeping facilities and police protection.

Section 5. Non-Interferences with Picket Lines.

The CITY agrees that no member of the Bureau of Fire shall be ordered to interfere with legally constituted picket lines except to perform regular Fire Bureau duties.

Section 6. Relief from Duty.

In the event of a fire lasting four hours in duration or when weather conditions are excessively hot or cold, relief from the fire scene of 60 minutes for each member present at the fire shall be provided. If relief is not given, members will be paid at a rate of double time from the time the alarm was received to the time the member returns to service. Should member refuse to take the aforementioned relief, his right to the double time payment shall be forfeited.

Section 7. Off-Duty Personnel Call-Back

Off-duty members will be called back if additional personnel are needed. Mutual aid will be used as the emergency dictates.

Section 8.      Mechanics.

Only department mechanics and no other personnel can be called to work on department vehicles. Only department mechanics can authorize towing of vehicle failures.

Section 9.      Correspondence.

A.      Writings. All official departmental business such as general duty orders, special duty orders, memorandums and all other correspondence or documents received or issued shall be in writing.

B.      Association/City correspondence. The officers representing the CITY in the Department of Public Safety Bureau of Fire and the ASSOCIATION agree to acknowledge correspondence in writing from the other within five (5) business days of the receipt of such correspondence.

Section 10.      Payment of Special Funds.

A.      Holiday salary shall be paid once a year on the first payday in November.

B.      Clothing allowance and clothing maintenance shall be paid once a year on the first pay day in November.

Section 11.      The CITY agrees that no member of the Bureau of Fire shall have to perform carpentry (except for the department carpenter), masonry, plumbing or painting (except for tools and equipment) work in any Engine House.

Section 12.

The CITY agrees to pay any member upon his retirement for each day of unused sick leave credited to his account at the time of his retirement at the rate of \$5.00 per day, for the first 150 days and at a rate of \$50.00 per day for the next 150 days, not to exceed 300 days. Any member



of the bargaining unit who is eligible to retire but chooses to resign in order to transfer their service credit to another retirement system shall be entitled to this benefit.

Section 13. Vacancies on Apparatus.

In filling vacancies on apparatus and switchboard, the Chief must notify the ASSOCIATION membership of such vacancy by posting a notice on each station bulletin board as soon as a vacancy exists. If any member of this ASSOCIATION has the ability and qualification for the work involved, and has been a member of the Bureau of Fire for a full twenty-four (24) months of service, he may request a transfer to fill the vacancy, in writing within five (5) days.

The Chief will fill the vacancy by transferring the member having the greatest seniority and everything being equal, within fifteen (15) days of the date of the posting. The Chief may delay the filling of the vacancy if new members are not appointed.

Members may only submit one transfer request within a twenty-four month period.

When companies are taken out of service permanently, members will be able to have seniority rights on existing companies in service.

Section 14. Safety Standards for Fire Vehicles.

The CITY shall establish minimum safety standards for vehicles consistent with the standards of the State Motor Vehicles Bureau for comparable vehicles and shall have annual inspections to insure the maintenance of these standards.

Section 15. Officers Changing Platoons.

When officers are requested to change platoons in January or July, they shall make their own arrangements with each other within their respective companies to get themselves onto the right platoon within thirty (30) days of the posted notice of reassignment.

Section 16. Veteran's Time.

Veteran's days and compensatory days will be scheduled for all members of the Department by the Chief. Days may not be rescheduled without both parties agreeing.

Section 17. Verbal Orders.

All verbal orders by the Mayor, Public Safety Commissioner, Fire Chief, or any designating commander, concerning policy matters involving individuals or personnel of the Utica Professional Fire Fighters Association shall be confirmed in writing within 24 hours of the verbal order and placed in a file to become a part of permanent record.

Section 18. Call Back from Off-Duty Status

A. For purpose of this section, a call back is defined as an instance where because of scheduled staffing needs, a firefighter or officer is offered the opportunity to work in order to fill a vacancy or cover for an absent employee.

B. Call back opportunities will be offered on the basis of stick seniority within rank to those individuals assigned to the three platoons which are off duty at the time that the call back is needed. Call back will be paid at straight time and will be given to the most senior person accepting the call back up to a maximum total working hours of 212 in a 28-day work cycle. Once a member has worked 44 additional hours over and above those which he is

scheduled to work in the 28-day cycle, he will no longer be offered call back opportunity within that cycle.

C. Call back for specialty positions, such as Paramedics and Hazmat team members will be done utilizing only members who are qualified to perform the duties of that specialty.

Section 19. No Layoff Provisions.

The City agrees for the term of this Agreement (through 3/31/11) that no member of the bargaining unit shall be laid off. This provision will expire or sunset on March 31, 2011.

Section 20.

In the event there is a reduction in the Fire Department complement, which results in the reduction of the number of officers in the complement, the City agrees that the reduction in the numbers of each rank shall be accomplished in the inverse order of seniority by time in rank (grade).

Section 21.

Transfers within the Department shall be done by seniority within classification (examples: Captains, Lieutenants, Firefighter, EMT).

**ARTICLE VII**  
**ASSOCIATION ACTIVITIES**

Section 1. Office Space.

Upon request the ASSOCIATION shall be provided space by the CITY in any Engine House where the President, Vice President, Secretary and Treasurer of the ASSOCIATION is

assigned. This shall include sufficient space for a desk, chairs, side chair, typewriter, filing cabinets, telephone and light.

Section 2. The CITY shall provide bulletin board space in every fire station and shall permit the use of department mail and communications for the distribution of ASSOCIATION notices.

Section 3. Announcements.

A. Speaker System. The CITY agrees to allow the ASSOCIATION the use of the speaker system to announce deaths in members' families, ASSOCIATION meetings and other pertinent ASSOCIATION information with the approval of the Deputy Chief in charge.

B. Teletype System. The CITY agrees that the Bureau of Fire Teletype System may be used to transmit notices of deaths of members' families to all Engine Houses.

**ARTICLE VIII**  
**MISCELLANEOUS PROVISIONS**

Section 1. Saving Clause.

In the event that any provision of this Agreement shall be held to violate any federal, state or local law or any local ordinance, said provision shall be separate from the remaining provisions of the Agreement and the said provisions shall continue in full force and effect.

Section 2. City Affairs.

Any privileges already accorded to the members of the Bureau of Fire covered by this Agreement shall not be rescinded as a result of this Agreement. This is in no way construed to usurp the generally accepted prerogatives of management. The ASSOCIATION understands

that the importance of the normal and orderly conduct of the CITY's business and operations and the ASSOCIATION and its members will cooperate and assist the CITY in its performance of its duties and obligations to the citizens thereof. The provisions of this Agreement shall be expressly limited to salaries, benefits and other conditions of employment of the covered employees of the CITY and shall not, in any way, be construed to restrain or limit the CITY in the full and absolute management of its affairs.

Section 3.      Duration of Agreement.

A.      Negotiation for Renewal of Agreement. Proposals to revise or to add to this Agreement by either party hereto must be submitted to the other party in writing on or before December 1, 2010, with negotiations for a new contract to automatically begin on January 8, 2011. Negotiations, however, may begin at a later date if mutually agreed upon in writing to suit the convenience of the parties hereto.

B.      Duration of Agreement. This Agreement shall be effective from April 1, 2007 through March 31, 2011. If, on April 1, 2011, no new agreement has been executed between the CITY and the ASSOCIATION, the CITY agrees that all of the terms, provisions, and benefits of this Agreement shall remain in effect until the new agreement has been executed, retroactive to the extent permitted by law.

Section 4.      Grievances.

Definition of Grievance - A grievance is any controversy, dispute or difference between the parties arising out of the interpretation or application of this agreement or book of rules or working conditions affecting the employee. Any member of this bargaining unit will be extended the use of this grievance procedure for disciplinary matters and reserve the right to

have, pursuant to Section 75 of the Civil Service Law if necessary. A grievance will also include a claim of harassment from the Chief or his designee. Questions concerning a firefighter's eligibility for 207-a benefits or concerning entitlement to pay or any other benefit under Section 207-a shall be heard under the procedures set forth in Appendix D.

Procedure - Any grievance shall be reduced to writing within sixty (60) calendar days of when the employee knew or should have known of its occurrence, and such grievances shall be signed by the aggrieved party and presented to the Commissioner of the Public Safety. Within five (5) working days thereafter, the Commissioner of Public Safety shall schedule a meeting to discuss the subject of said grievance and attempt to satisfactorily and mutually agree upon the disposition thereof.

If such grievance is not disposed of by such conference, the Commissioner of Public Safety, with five (5) working days thereafter, shall reply in writing to the ASSOCIATION, or member, the ASSOCIATION or member shall present such grievance in writing together with a copy of the Commissioner's of Public Safety's reply to the Mayor of the CITY within ten (10) working days thereafter. The Mayor shall reply in writing within ten (10) days to the ASSOCIATION and member.

Arbitration - If the decision of the Mayor is unacceptable to the ASSOCIATION or member, the following procedure shall apply:

The ASSOCIATION shall, within thirty (30) days from the receipt of the Mayor's signed, written decision, forward a written notice to the Mayor that the ASSOCIATION desires to arbitrate the matter.

At a mutually agreeable time, but not more than thirty (30) calendar days from the date of the notice of demand for arbitration, the parties agree to meet and agree on a written stipulation

as to the specific issues in dispute and, if possible, on an impartial arbitrator. If the parties are unable to agree on a stipulation or an impartial arbitrator, either party may write requesting P.E.R.B. to appoint an arbitrator in the matter and furnish the arbitrator copies of the written grievance and the written replies thereto requesting the arbitrator to arbitrate the matter. The decision of the arbitrator shall be final, conclusive and binding upon all parties. In grievances alleging a violation of the Collective Bargaining Agreement, the arbitrator shall be strictly limited to the application and interpretation of the specific provisions of the Agreement and may not add to, modify or otherwise deviate from those provisions. The cost of arbitration shall be shared by both parties to this Agreement.

**ARTICLE IX**  
**DRUG AND ALCOHOL POLICY AND TESTING PLAN**

Effective January 1, 2002, the Utica Fire Department Drug and Alcohol Policy and Testing Plan, attached hereto as Appendix "B," will become effective and shall be made a part of the Collective Bargaining Agreement.

**ARTICLE X**  
**PHYSICAL FITNESS PROGRAM**

Effective April 1, 2004, the parties will implement a Fitness Program as detailed in Appendix C.

IN WITNESS WHEREOF, the parties have hereto set their hands and seals this \_\_\_\_ day of August, 2008.

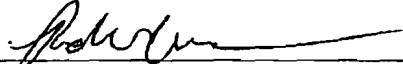
CITY OF UTICA, NEW YORK

By: \_\_\_\_\_

DAVID R. ROEFARO, Mayor

LOCAL 32, INTERNATIONAL  
ASSOCIATION OF FIRE FIGHTERS,

A.F.L.-C.I.O.-C.L.C., UTICA  
PROFESSIONAL FIRE FIGHTERS  
ASSOCIATION

By:   
ROBERT WENNER, President



# APPENDIX A-1

## PAY SCHEDULE FOR EMPLOYEES HIRED EFFECTIVE 04/01/01

Rank		4/1/2006	4/1/2007	4/1/2008	4/1/2009	4/1/2010
<b>Fire Fighter</b>						
FF-1	1 Year	\$32,929.33	\$33,587.92	\$34,259.67	\$34,944.87	\$35,643.77
FF-2	2 Years	\$39,553.44	\$40,344.51	\$41,151.40	\$41,974.43	\$42,813.92
FF-3	3-5 Yrs	\$48,448.24	\$49,417.20	\$50,405.55	\$51,413.66	\$52,441.93
FF-4	6-8 Yrs	\$49,072.18	\$50,053.62	\$51,054.70	\$52,075.79	\$53,117.31
FF-5	9-11 Yrs	\$50,053.45	\$51,054.52	\$52,075.61	\$53,117.12	\$54,179.46
FF-6	12-15 Yrs	\$51,034.72	\$52,055.41	\$53,096.52	\$54,158.45	\$55,241.62
FF-7	16-19 Yrs	\$52,015.99	\$53,056.31	\$54,117.44	\$55,199.78	\$56,303.78
FF-8	20 Yrs - Ret	\$52,998.35	\$54,058.32	\$55,139.48	\$56,242.27	\$57,367.12
<b>Lieutenant/Fire Marshall</b>						
LT-3		\$53,293.39	\$54,359.26	\$55,446.44	\$56,555.37	\$57,686.48
LT-4		\$53,979.62	\$55,059.21	\$56,160.40	\$57,283.60	\$58,429.28
LT-5		\$55,059.24	\$56,160.42	\$57,283.63	\$58,429.31	\$59,597.89
LT-6		\$56,137.76	\$57,260.52	\$58,405.73	\$59,573.84	\$60,765.32
LT-7		\$57,217.37	\$58,361.72	\$59,528.95	\$60,719.53	\$61,933.92
LT-8		\$58,298.08	\$59,464.04	\$60,653.32	\$61,866.39	\$63,103.72
<b>Captain</b>						
<b>Linemen, F/A, Mech</b>						
CAPT-3		\$58,622.62	\$59,795.07	\$60,990.97	\$62,210.79	\$63,455.01
CAPT-4		\$59,377.69	\$60,565.24	\$61,776.55	\$63,012.08	\$64,272.32
CAPT-5		\$60,565.49	\$61,776.80	\$63,012.34	\$64,272.58	\$65,558.03
CAPT-6		\$61,751.10	\$62,986.12	\$64,245.84	\$65,530.76	\$66,841.38
CAPT-7		\$62,938.89	\$64,197.67	\$65,481.62	\$66,791.25	\$68,127.08
CAPT-8		\$64,127.78	\$65,410.34	\$66,718.54	\$68,052.91	\$69,413.97
<b>Deputy Chief</b>						
D/C-3		\$64,485.10	\$65,774.80	\$67,090.30	\$68,432.10	\$69,800.75
D/C-4		\$65,315.57	\$66,621.88	\$67,954.32	\$69,313.41	\$70,699.67
D/C-5		\$66,622.47	\$67,954.92	\$69,314.02	\$70,700.30	\$72,114.30
D/C-6		\$67,926.10	\$69,284.62	\$70,670.31	\$72,083.72	\$73,525.40
D/C-7		\$69,233.00	\$70,617.66	\$72,030.01	\$73,470.61	\$74,940.03
D/C-8		\$70,540.99	\$71,951.81	\$73,390.85	\$74,858.66	\$76,355.84
<b>Deputy Chief - Fire Inspector/Assistant Chief Fire Marshall</b>						
DCM-8		\$77,595.64	\$79,147.55	\$80,730.50	\$82,345.11	\$83,992.02
<b>Assistant Chief</b>						
A/C-8		\$85,355.09	\$87,062.19	\$88,803.44	\$90,579.50	\$92,391.09

## APPENDIX A-2

### PAY SCHEDULE FOR EMPLOYEES HIRED EFFECTIVE 04/01/02

Rank		4/1/2006	4/1/2007	4/1/2008	4/1/2009	4/1/2010
<b>Fire Fighter</b>						
FF-1	1 Year	\$32,929.33	\$33,587.92	\$34,259.67	\$34,944.87	\$35,643.77
FF-2	2 Yrs	\$36,158.34	\$36,881.51	\$37,619.14	\$38,371.52	\$39,138.95
FF-3	3 Yrs	\$39,386.25	\$40,173.98	\$40,977.45	\$41,797.00	\$42,632.94
FF-4	4 Yrs	\$42,615.26	\$43,467.57	\$44,336.92	\$45,223.65	\$46,128.13
FF-5	5 Yrs	\$45,843.18	\$46,760.04	\$47,695.24	\$48,649.15	\$49,622.13
FF-6	6-8 Yrs	\$49,072.18	\$50,053.62	\$51,054.70	\$52,075.79	\$53,117.31
FF-7	9-11 Yrs	\$50,053.45	\$51,054.52	\$52,075.61	\$53,117.12	\$54,179.46
FF-8	12-15 Yrs	\$51,034.72	\$52,055.41	\$53,096.52	\$54,158.45	\$55,241.62
FF-9	16-19 Yrs	\$52,015.99	\$53,056.31	\$54,117.44	\$55,199.78	\$56,303.78
FF-10	20 Yrs. - Ret	\$52,997.26	\$54,057.21	\$55,138.35	\$56,241.12	\$57,365.94
<b>Lieutenant/Fire Marshall</b>						
LT-5		\$50,427.17	\$51,435.71	\$52,464.43	\$53,513.72	\$54,583.99
LT-6		\$53,979.62	\$55,059.21	\$56,160.40	\$57,283.60	\$58,429.28
LT-7		\$55,059.24	\$56,160.42	\$57,283.63	\$58,429.31	\$59,597.89
LT-8		\$56,137.76	\$57,260.52	\$58,405.73	\$59,573.84	\$60,765.32
LT-9		\$57,217.37	\$58,361.72	\$59,528.95	\$60,719.53	\$61,933.92
LT-10		\$58,296.99	\$59,462.93	\$60,652.19	\$61,865.23	\$63,102.54
<b>Captain</b>						
<b>Linemen, F/A, Mech</b>						
CAPT-5		\$55,470.10	\$56,579.50	\$57,711.09	\$58,865.31	\$60,042.62
CAPT-6		\$59,377.69	\$60,565.24	\$61,776.55	\$63,012.08	\$64,272.32
CAPT-7		\$60,565.49	\$61,776.80	\$63,012.34	\$64,272.58	\$65,558.03
CAPT-8		\$63,936.55	\$65,215.28	\$66,519.59	\$67,849.98	\$69,206.98
CAPT-9		\$62,938.89	\$64,197.67	\$65,481.62	\$66,791.25	\$68,127.08
CAPT-10		\$64,126.68	\$65,409.21	\$66,717.40	\$68,051.75	\$69,412.78
<b>Deputy Chief</b>						
D/C-3		\$61,016.78	\$62,237.12	\$63,481.86	\$64,751.50	\$66,046.52
D/C-4		\$65,315.57	\$66,621.88	\$67,954.32	\$69,313.41	\$70,699.67
D/C-5		\$66,622.47	\$67,954.92	\$69,314.02	\$70,700.30	\$72,114.30
D/C-6		\$67,926.10	\$69,284.62	\$70,670.31	\$72,083.72	\$73,525.40
D/C-7		\$69,233.00	\$70,617.66	\$72,030.01	\$73,470.61	\$74,940.03
D/C-8		\$70,539.90	\$71,950.70	\$73,389.71	\$74,857.51	\$76,354.66
<b>Deputy Chief - Fire Inspector/Assistant Chief Fire Marshall</b>						
DCM-10		\$77,593.45	\$79,145.32	\$80,728.23	\$82,342.79	\$83,989.65
<b>Assistant Chief</b>						
A/C-10		\$85,352.91	\$87,059.97	\$88,801.17	\$90,577.19	\$92,388.73

## **APPENDIX "B"**

### **CITY OF UTICA Fire Department**

#### **Drug and Alcohol Policy and Testing Plan**

##### ***PURPOSE***

The purpose of the Drug and Alcohol Policy and Testing Plan is to ensure:

- (A) A work environment where not only the citizens of the City of Utica, but the Utica Fire Department personnel, are free from the risk of personnel who may be under the influence of alcohol while on duty or may be using illegal drugs;
- (B) The capability of all Utica Fire Department personnel to perform their assigned duties at all times without being under the influence of alcohol or drugs;
- (C) That members of the Utica Fire Department share in the responsibility and understanding that when members of this Department, who may be or are under the influence of alcohol when reporting to duty or on duty, or using illegal drugs at any time, he/she is a detriment to themselves, other members of this Department and to the citizens we are sworn to protect. It is the obligation of all members to insure the safety of all concerned by reporting such conduct;
- (D) The understanding of the Utica Fire Department personnel of the availability of the Employee Assistance Program in which, under confidentiality, they may request assistance and/or rehabilitation for alcohol and drug use;
- (E) That Fire Department personnel are cognizant of the ramifications of being under the influence of alcohol when reporting for duty or while on duty, and the use of illegal drugs at any time.

##### ***DEFINITIONS***

**COVERED EMPLOYEES:** All employees of the Utica Fire Department.

**MEDICAL REVIEW OFFICER (MRO):** A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by an employer's drug testing program who has knowledge of the substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result, together with his/her medical history and any other biomedical information.

**SUBSTANCE ABUSE PROFESSIONAL (SAP):** A licensed physician (medical doctor or doctor of osteopathy), or a licensed or certified psychologist, social worker, employee assistance

professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders.

**DESIGNATED EMPLOYER REPRESENTATIVE (DER):** An employer or individual(s) identified by the employer as able to receive communications and test results directly from medical review officers, BATs, screening test technicians, collectors, and substance abuse professionals, and who is authorized to take immediate actions to remove employees from safety-sensitive duties and to make required decisions in the testing and evaluation processes.

**ADULTERATED SPECIMEN:** A urine specimen into which the employee has introduced a foreign substance.

**DILUTE SPECIMEN:** A urine specimen whose creatinine and specific gravity values are diminished by the employee through the introduction of fluid (usually water) into the specimen either directly or through excessive consumption of fluids.

**SUBSTITUTED SPECIMEN:** A specimen that has been submitted by the employee in place of his/her own urine.

**BLOOD ALCOHOL CONCENTRATION (BAC):** The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test.

**EVIDENTIAL BREATH TESTING DEVICE (EBT):** An EBT approved by the National Highway Traffic Safety Administration (NHTA) for the evidential testing of breath and placed on NHTA's "Conforming Products List of Evidential Breath Measurement Devices" (CPL).

**BREATH ALCOHOL TECHNICIAN (BAT):** An individual who instructs and assists individuals in the Alcohol testing process and operates an EBT.

**SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES (SAMHS):** Formerly National Institute of Drug Abuse.

**DEPARTMENT OF HEALTH AND HUMAN SERVICES (DHHS):**

## ***EMPLOYEE ASSISTANCE PROGRAM (EAP)***

- (A) Personnel of the Utica Fire Department have the availability of the Employee Assistance Program to seek assistance and/or rehabilitation in coping with problems of alcohol or drug dependency and/or abuse.
- (B) Personnel seeking assistance shall notify either the coordinator of the Employee Assistance Program or contact the designated EAP agency. Contacts to these programs are under strict confidentiality.
- (C) Personnel may also be referred by another member of this Department. Any such referral shall maintain confidentiality for the affected member.
- (D) The Utica Fire Department will grant a maximum total of two (2) sick leave periods during the member's career, as prescribed by the EAP Coordinator, a licensed counselor, and/or SAP for a member to receive treatment for alcohol and/or drug dependency. A sick leave period will not be granted within twelve (12) months of a previous leave period.
- (E) Entry and participation in such treatment and rehabilitation must occur prior to the employee selection for random drug testing or selection for reasonable suspicion or post-incident testing.

## ***PROHIBITIONS***

### **Alcohol Prohibitions**

Employees must not:

- Report for duty or remain on duty while having a Blood Alcohol Concentration (BAC) of 0.02% or higher;
- Possess alcohol while on duty, use, or be under the influence of alcohol;
- Refuse to submit to a required alcohol test;
- Refuse to submit to any test.

### **Controlled Substance Prohibitions**

Employees must not:

- Report for duty or remain on duty when the employee uses any controlled substance, except when the use is pursuant to the instructions of a physician who has advised the employee that the substance does not adversely affect the employee's ability to perform his or her job duties;

- Refuse to submit to any test;
- Adulterate, substitute or dilute any required specimen.

## ***TESTING***

### **Pre-Employment**

Conducted before applicants are hired.

### **Random**

Conducted on a random unannounced basis.

- Tests must be unannounced and spread throughout the calendar year. Random selection could result in an employee being selected for testing more than once in a calendar year.

### **Reasonable Suspicion**

Conducted when an employee's behavior or appearance is observed and that behavior is characteristic of alcohol misuse or the influence of controlled substances. The City will require that two (2) trained supervisors or department officials verify and document the behavior.

### **Post Accident**

Conducted following every motor vehicle accident, which results in personal injury or more than \$5,000.00 in property damage. Should an employee require medical attention then that shall take precedence over the testing. However, alcohol testing must occur within two (2) hours after the accident. Drug testing must occur within thirty-two (32) hours after the accident. If unable to test as required above, documentation as to why testing wasn't done must be provided.

### **Return to Duty**

Conducted prior to a return to duty after an individual who has engaged in prohibited conduct regarding drug use and/or alcohol misuse; the employee shall undergo a "Return to Duty" drug test and/or alcohol test with a verified negative result, after completion of any recommended treatment program or action.

### **Follow-Up**

Following a positive test and subsequent return to work, unannounced follow-up alcohol and/or drug testing will be required. A minimum of six (6) follow-up drug and/or alcohol tests will be administered in the first twelve (12) months. An employee may be subject to follow-up testing for up to sixty (60) months after return to duty upon the recommendation made by the Substance Abuse Professional.

## ***TESTING PROTOCOL***

Testing for drugs will be conducted by urinalysis. A breath alcohol technician (BAT) using an approved breath-testing device will conduct testing for alcohol. In a post-accident testing mode a blood test for alcohol may be administered if a breath test is impractical.

A qualified provider will conduct all drug and alcohol collections. The Utica Police Department is deemed a qualified provider for alcohol testing.

### **Drug Testing**

Drug testing will be conducted by analyzing an employee's urine specimen. The analysis will be performed at laboratories certified and monitored by SAMHSA and DHHS. The employee will provide a urine specimen in a location that affords privacy; and the "collector" seals and labels the specimen, complete a custody and control form (CCF) and prepare the specimen and accompanying paperwork for shipment to a drug testing laboratory in the presence of the employee. The specimen collection procedures and chain of custody will ensure that the specimen's security, proper identification and integrity are not compromised. Drug testing will include split specimen procedures. Each urine specimen will be subdivided into two (2) bottles labeled as a "primary" and a "split" specimen. Both bottles will be sent to a laboratory. If the analysis of the primary specimen confirms the presence of illegal or controlled substances, the employee has 72 hours to request the split specimen be sent to another SAMHSA/DHHS certified laboratory for analysis at the employee's expense. If the split specimen proves to be negative, the City will pay the expense. This split specimen procedure essentially provides the employee with an opportunity for a "second opinion."

The Medical Review Officer (MRO) is responsible for:

- The Notification Procedure

Upon a positive test result, the MRO must contact the employee directly on a confidential basis and determine whether the employee wants to discuss the test result. In making the contact the MRO must explain to the employee that if he/she declines to discuss the test result the MRO will verify a positive result.

The MRO must attempt to reach the employee using the day and/or evening phone numbers provided on the custody and control form (CCF), over a period of at least 24 hours using reasonable efforts.

- Documenting the attempts to contact the employee with dates and times.
- Contacting the Designated Employer Representative (DER).

## ***TESTING STANDARDS***

Concentrations of a drug at or above the following levels shall be considered a positive test result when using the initial drug screening test:

	<b><u>Initial Test Level (ng/ml)</u></b>
Marijuana Metabolite	100 or 50*
Cocaine Metabolite	300
Opiate Metabolites	300**
Phencyclidine	25
Amphetamines	1000
Steroids	Levels to be determined

\* = Dependent upon laboratory set-up

\*\* = 15 ng/ml if immunoassay specific for free morphine.

Concentration of drug at or above the following levels shall be considered a positive test result when performing a confirmatory GM/MS test on a urine specimen that tested positive using a technologically different initial screening method:

	<b><u>Confirmatory Test Level (ng/ml)</u></b>
Marijuana Metabolite	15(1)
Cocaine Metabolite	150(2)
Opiates:	
Morphine	300
Codeine	300
Phencyclidine	25
Amphetamines:	
Amphetamine	500
1) Delta-9-tetrahydrocannabinol-9-carboxylic acid	
2) Benzoylcegonine	
Steroids	Levels to be determined



## ***ALCOHOL TESTING***

Confirming alcohol tests will be conducted using evidential breath testing (EBT) devices approved by the National Highway Traffic Safety Administration (NHTSA).

Preliminary screening tests may be conducted by using approved devices for administering field sobriety tests to licensed motor vehicle operators.

Two breath tests (in addition to a preliminary screening test, if used) are required to determine if a person has a prohibited alcohol concentration. A screening test is conducted first. A test result indicating less than 0.02% alcohol concentration is considered a “negative” test. If the alcohol concentration is 0.02% or greater, a confirmation test must be conducted (not less than 10 minutes or more than 20 minutes after the first screening test). The employee and the breath alcohol technician (BAT) must complete the alcohol testing form to ensure that the results are properly recorded. The confirmation test, if required, must be conducted using an EBT that prints out the results, date and time, a sequential test number and the name and serial number of the EBT to ensure the reliability of the results.

## ***TESTING PROCEDURES***

### **Random Testing**

#### **Drug Testing**

Employees will be tested at a designated testing facility.

Upon receipt of a positive test result from the Medical Review Officer (MRO), the employee will be transported home and remain there until a recommendation is made by the Substance Abuse Professional (SAP). Before returning to work the employee must successfully complete the recommended course of treatment. Upon successful completion of this treatment the employee must submit to a “Return to Duty” test with a verified negative result.

#### **Alcohol Testing**

Employees will be tested at a designated testing facility.

Upon receipt of a negative test result (under 0.02%), the employee will return to work.

Upon receipt of a positive test result from the Breath Alcohol Technician (BAT), the employee will be transported home and will not return to work until a recommendation is made by the Substance Abuse Professional (SAP). Before returning to work the employee must successfully complete the recommended course of treatment. Upon successful completion of this treatment, the employee must submit to a “Return to Duty” test with a verified negative result.

### **Reasonable Suspicion**

## **Drug Testing**

Employee must be transported to the testing facility. Upon completion of the testing the employee will be transported home until the results are received by the (DER).

Upon receipt of a negative test result the employee will return to work without suffering a loss of wages or benefits.

Upon receipt of a positive test result from the Medical Review Officer (MRO), the employee will be evaluated by the Substance Abuse Professional (SAP) and a recommendation will be made. Before returning to work the employee must successfully complete the recommended course of treatment. Upon successful completion of this treatment, the employee must submit to a "Return to Duty" test with a verified negative result.

## **Alcohol Testing**

The City will be responsible for transporting the employee to the collection facility and to the employee's home, if necessary.

Upon receipt of a negative test result, the employee will return to work without suffering a loss of wages or benefits.

Upon receipt of a positive test result from the Breath Alcohol Technician (BAT), the employee will be transported home without pay and is not eligible to return to work until evaluated by the Substance Abuse Professional (SAP) and a recommendation is made. Before returning to work the employee must successfully complete the recommended course of treatment. Upon successful completion of this treatment, the employee must submit to a "Return to Duty" test with a verified negative result.

The "Reasonable Suspicion Form," if the test result is positive, will be included in the employee's personnel file. If the test result is negative the form will be discarded. Upon written request, a covered employee may obtain copies of any records pertaining to the covered employee's use of alcohol or controlled substances, including any records pertaining to his/her alcohol or controlled substance tests.

## **Post Accident**

### **Drug Testing**

The City will be responsible for transporting the employee to and from the collection facility.

Until the City receives the test results, the employee will not be allowed to perform his or her job duties.

Upon receipt of a negative test result, the employee will return to full duties.

Upon receipt of a positive test result from the Medical Review Officer (MRO), the employee will be transported home without pay and will not return to work until a recommendation is made by the Substance Abuse Professional (SAP). Before returning to work the employee must successfully complete the recommended course of treatment and must submit to a "Return to Duty" test with a verified negative result.

### **Alcohol Testing**

The City will be responsible for transporting the employee to and from the testing facility and/or home.

Upon receipt of a negative test result, the employee returns to work.

Upon receipt of a positive test result from the Breath Alcohol Technician (BAT), the employee will be transported home without pay and is not eligible to return to work until evaluated by the Substance Abuse Professional (SAP) and a recommendation is made. Before returning to work, the employee must successfully complete the recommended course of treatment and must submit to a "Return to Duty" test with a verified negative result.

## **Follow Up**

Positive test results require the employee to submit to a minimum of six (6) follow-up tests for drug and/or alcohol use during the first 12 months following the initial positive test result. The Substance Abuse Professional (SAP) may also require follow-up tests up to 60 months after return to duty.

## **Test Results**

All records are considered confidential and will not be shared with other employees. Test results and other confidential information will only be released to the Designated Employer Representative (DER), Medical Review Officer (MRO), and the Substance Abuse Professional (SAP) who evaluates the extent of the problem. However, the covered employee is entitled, upon written request, to obtain copies of any records concerning his/her use of drugs or alcohol, including any test records. If a covered employee initiates a grievance, hearing, lawsuit, or other action, the City may release this information to the relevant parties.

## ***CONSEQUENCES FOR REFUSAL OR A POSITIVE TEST RESULT***

All covered employees must submit to drug and alcohol testing.

**REFUSAL** to submit to testing is prohibited. The consequences for a refusal are therefore the same as if the person had submitted to testing and had a positive test result.

The following actions may also constitute a refusal:

- Failure to show up for any test within a reasonable time after being directed to do so by the employer.
- Refusal to sign the certification provided by the Technicians.
- Deliberate failure or refusal to provide adequate breath or urine sample. If the employee is unable to provide an adequate breath or urine sample, the City shall direct the employee to obtain an evaluation from a licensed physician, acceptable to the City, as soon as practical to determine the employee's medical ability to provide an adequate breath and/or urine sample. If the physician determines that a medical condition did (or could have) prevent the employee from providing an adequate sample the failure shall not constitute a refusal. However, if the physician is unable to make such a determination, the employee's failure shall constitute a refusal.
- Engaging in conduct that clearly obstructs the testing process, e.g., adulteration or dilution of specimen.
- Claiming illness after notification of testing.

## ***ALCOHOL TEST CONSEQUENCES***

A test measurement of less than or equal to .019 alcohol concentration will allow the employee to return to work.

A test measurement of 0.020 to 0.049 alcohol concentration will cause the employee to be suspended without pay for that tour. The employee will be allowed to return to work at the next assigned tour when that employee is tested immediately prior to returning to work and the results of such testing indicate the employee has a 0.00 concentration. Any employee who tests positive twice within these parameters (0.020 to 0.049) during a twenty-four month period shall be immediately suspended without pay for thirty (30) calendar days.

A test measurement of 0.0501 or greater will cause the employee to be suspended immediately without pay for thirty (30) calendar days. Any additional disciplinary measure will be subject to standing grievance and arbitration procedures outlined by the Collective Bargaining Agreement or Section 75 of the Civil Service Law. Prior to returning to work, an employee must receive a certification from a Substance Abuse Professional (SAP) that the employee is able to perform their full duties. Suspension without pay will continue until such certification is received. While out for thirty (30) days suspension, need to obtain certification from a Substance Abuse

Professional (SAP) that employee is fit for duty. Any member who tests positive twice with these parameters (0.051 or greater) during a twenty-four (24) month period shall be terminated.

Any employee who refuses an alcohol test shall be treated as testing positive with an alcohol content of 0.051.

During their probationary period, any officer who tests positive with an alcohol content of 0.020 or greater shall be suspended without pay for thirty (30) calendar days.

If an employee is unable to return to work after the suspension period due to treatment prescribed by a certified alcohol counselor (who determined he/she had an alcoholic illness), that member may be eligible for paid sick leave following the conditions of sick leave procedures as outlined in the Collective Bargaining Agreement.

Following completion of the suspension period, the employee must pass an alcohol test (0.00) prior to having the suspension without pay lifted and returning to work.

Any member who tests positive with an alcohol content of 0.020 or greater shall be subject to random alcohol tests for the next twenty-four months while on duty at the discretion of the Chief or his designee.

### ***DRUG TEST CONSEQUENCES***

A positive drug test for a prohibited substance, which is not subject to a medical exception as defined herein will result in the immediate suspension without pay for sixty (60) calendar days. The employer may take additional disciplinary action depending upon the circumstances. A second positive drug test at any time during an employee's tenure with the Utica Fire Department shall result in immediate and automatic termination.

## **APPENDIX "C"**

### **PHYSICAL FITNESS PROGRAM**

*Memorandum of Agreement  
By and Between  
The City of Utica  
And  
Local 32 International Association of Fire Fighters  
A.F.L. - C.I.O. - C.L.C.  
Utica Professional Fire Fighters Association*

**WHEREAS**, the City and the Union are parties to a Collective Bargaining Agreement through the period March 31, 2004; and

**WHEREAS**, the parties are desirous of moving forward with a Wellness/fitness Program which encompasses the need for the physical examination of members of the bargaining unit.

**NOW, THEREFORE**, the City and Union hereby agree as follows:

1. The attached documents entitled "Physical Examinations" consisting of (9) separately numbered paragraphs; "Fitness/Wellness Addendum for the Utica Fire Department" consisting of (3) separate sections titled "Physical Examination", "Fitness Assessment" and "Fitness Wellness on Duty" and "Candidates Physical Abilities Test (CPAT) consisting of (2) pages.

2. The parties agree that at the conclusion of the collective bargaining for a successor agreement to the current agreement that a separate article will be identified in the new Collective Bargaining Agreement incorporating the language contained in the attached document unless such language is further modified during the upcoming collective bargaining process.

**LOCAL 32 INTERNATIONAL ASSOCIATION  
OF FIRE FIGHTERS**

**CITY OF UTICA**

George Clark, President

Timothy Julian, Mayor

**PHYSICAL EXAMINATIONS**

1. The City may require an employee to take a medical examination under any circumstances which warrant such examination. An examination shall be given every three (3) years for an employee under thirty (30) years of age, every two (2) years for an employee under forty (40) years of age, and every year for an employee forty (40) years of age or older. Employees assigned to the Hazardous Materials Team may be required to take a medical exam on a more frequent basis than described above, regardless of the employee's age.

2. The physical shall consist of an examination that determines whether the employee meets the physical levels required to perform the employee's regular duties as set forth in professionally accepted and recognized standards agreed to by the parties. The parties agree to use the physical standards as set forth in NFPA 1500 until a different standard is agreed upon to replace NFPA 1500. The examination requirements shall be contained in a written statement setting forth the required levels necessary to meet the minimum standards for the individual employee to perform their regular duties and the protocols for evaluating the required levels.

3. The examination shall be administered by the fire surgeon or designee or at the option of the employee by the employee's personal physician. The schedule of the examination shall be announced sufficiently far in advance to permit the employee to schedule the physical with their personal physician. Every effort will be made to schedule the physical on the employee's regular work day. If the physical is not scheduled for a regular work day, the employee will receive pay for the period of the physical at the appropriate rate of pay. If an employee exercises the right to have a personal physician perform the physical, no additional pay will be earned for the period of the physical. In the case of a physical exam administered by a personal physician, the City's financial obligation for said exam shall be limited to the amount which the City would have paid if the exam was performed by the City's own physician.

4. If an employee does not meet the minimum physical standards, he/she may be placed on modified duty, which duty shall include assignment to the switchboard or other specified assignments agreed to by the City and Local 32.

5. If the employee does not complete a physical examination within thirty (30) days after being notified of the need for such physical by the Department, the employee may be placed on modified duty until the physical is completed. In addition, the City has the right to order a physical examination to be conducted by the Fire Surgeon or his designee.

6. In the event that an employee is found to not meet the minimum standards, the employee or the employer shall have the right to submit a written report from a qualified physician certifying that the employee can perform the essential functions of the employee's regular job duties either with or without a reasonable accommodation despite the physical limitation. The parties reserve the right to challenge that determination. In such a case, the dispute shall be submitted to an arbitrator under the parties' arbitration clause for final determination.

7. Either the employee or the City has the right to contest a finding that the employee does or does not meet the minimum levels required for the performance of their regular duties based on the submission of a written report from a qualified physician that sets forth the basis for the challenge. In such a case, the parties shall submit the dispute to arbitration pursuant to the parties' arbitration clause. Prior to such arbitration, the parties have the mutual obligation to provide disclosure of all medical records and the employee will make himself/herself available for a medical examination.

8. In any case where there is a dispute over whether an employee meets the minimum levels to perform the employee's regular duties, the employee may be placed on modified duty pursuant to the terms of the Agreement pending the resolution of the dispute.



9. All medical records under this Article will be maintained in a separate file and kept strictly confidential. No record will be disclosed except on a need-to-know basis.

## **FITNESS/WEELLNESS ADDENDUM FOR THE UTICA FIRE DEPARTMENT**

### **1- PHYSICAL EXAMINATION**

- a) To be given to every line firefighter or designated member(s) of the Utica Fire Department.
- b) The physical examination and what specifically the examination will entail (ex. hands-on physical examination, blood analysis, cancer screening, etc.) will be agreed upon by labor management and union and advised by the UFD Fire Surgeon.
- c) The determined physical examination will be issued (given) by the agreed upon health care provider(s) or the member's own personal physician (adhering to what the physical examination entails specifically) - (See above (b)).
- d) Upon completing and passing the physical examination, the determined health care provider(s), UFD's Fire Surgeon, or member's physician, will clear the line firefighter or other designated member who engaged in the physical examination, for a fitness assessment to be given by the UFD Fitness/Wellness Coordinator and/or PEER Fitness Trainer(s).

### **II- FITNESS ASSESSMENT**

- a) The fitness assessment/evaluation will be given at the designated UFD Fitness Center or Training Academy, as it is referred to.
- b) The fitness assessment will consist of evaluating aerobic capacity, muscular strength, muscular endurance and flexibility.
- c) The goal of the assessment or evaluation is not of a competitive nature but as to create a baseline for each individual tested and to manifest area(s) within the evaluation where the individual being tested should improve for fitness/injury prevention.
- d) Once the individual's baseline has been established, retesting will be done for that individual as coincides with the physical examination guidelines. For example, if a member is 40 years old or older, a physical examination will be issued or given annually, so as the fitness assessment; if the member is 35 years old, the physical examination would be given every 2 years, as well as the fitness assessment.
- e) All fitness assessments will be given to the member on their day of duty.

### **III- FITNESS/WEELLNESS TRAINING ON DUTY**

- a) All members as designated (line, etc.) will participate in an exercise session while on duty at the UFD Fitness Center (Training Academy).
- b) The members that are on assigned apparatus will follow their assigned/designated work out or exercise time. For example, No. 1 Engine will participate in exercise at the UFD Fitness Center from 1000 to 1100 hrs.
- c) When crews exercise on duty at their assigned times, it is imperative that they exercise at a light to moderate intensity, giving time for proper cool-down of their activity as not to overtax themselves. Given the unpredictable nature of the job, and required physical demand, following this intensity guideline is extremely important. A good example of training on duty might follow with emphasis on stretching (which could help prepare for subsequent physical demands), some light to moderate aerobic work, and working on smaller supportive musculature, such as the rotator cuff.
- d) Members engaged in a fitness program should train consistently for best results, giving enough rest and recovery, which is dependent on the demands imposed from their program. More intense workouts, if advisable, should be performed off-duty.

## **CANDIDATES PHYSICAL ABILITIES TEST (CPAT)**

CPAT is recognized as a standard for all new Fire Fighters and is mandated by New York State for all new employees.

The abilities tested for are related to firefighting and test actual job functions. As such, a proper measurement of fitness for duty should incorporate job functions as tested by CPAT. Therefore, the CITY agrees to the following stipends for fitness:

1. All members who successfully pass CPAT shall receive a stipend of \$500.00 for each year that they pass the CPAT. The payment of \$500.00 shall be made once a year and be paid on the second pay period of May each year.
2. CPAT testing shall commence on or about April 1 of each year and be completed in time so that all members who pass the CPAT will receive the payment in paragraph 1 above.
3. The first CPAT testing of all members shall commence on or about April 1, 2005 with the first payment in May 2005.
4. Members must have completed 2 years of service prior to May 1 of any year to be eligible for the stipend.
5. Testing will be done off duty, without pay, and be scheduled on a first come first served basis during the testing period. CPAT proctors shall be compensated for their time while conducting the testing. Compensation will be paid on a straight time basis and may not be taken in time off.
6. Members injured and entitled to 207-a benefits at the time of testing shall not be allowed to test for any fitness level. Members on sick leave during the testing period will not be allowed to test unless off of sick leave within the time frame of the testing period.
7. Finance Administrator, Linemen and Mechanic will not qualify for this program. Staff personnel within the bargaining unit shall be afforded opportunities to participate in the program and should be encouraged to do so.

## **UFD WELLNESS/FITNESS PROGRAM**

The purpose of this program is to encourage and foster a healthier and more physically fit Fire Department. To be successful, the City and Local 32 recognize the importance and commitment employees should make during off duty hours to become more physically fit. As it is impossible to force employees to perform any type of work related detail while off duty, the City and Local 32 are attempting through this program to inspire employees to embrace this wellness/fitness initiative.

The objective of this program is to reduce injuries, reduce medical expenses to the fire department and provide physicals on a regular basis.

- Physical examinations will adhere to the attached agreed upon addendum and shall commence on or about April 1, 2004.
- Fitness/wellness addendum as proposed by Lt. Anthony Madia, will be attached to this program and shall be used as a guideline in fitness assessments for all employees of the fire department.

The City agrees to the following restrictions in regard to on duty fitness assessments and on duty workouts.

1. The degree of manual physical activity entailed in a daily duty will be considered when scheduling other activities of a physical nature such as physical fitness duty.
2. All companies shall be out of service for Automatic Alarms and details (MVA, EMS, service calls, etc.) while working out. Telephone alarms shall require companies to respond while at the fitness center.
3. Members shall be required to perform minimal workouts as prescribed after physicals and fitness evaluations while on duty except as provided in paragraphs 1 and 2 above.
4. Company Officers may request to move their time at the fitness center to accomplish house details (hose test, hose change, spring cleaning, etc.) and approval shall not be unreasonably withheld.
5. Disputes involving this program and any of its provisions shall be subject to the grievance procedures as outlined in the collection bargaining agreement.

## **APPENDIX "D"**

### **General Municipal Law Section 207-a Procedure**

#### **Section 1: INTENT**

This policy is intended to provide a procedure to regulate both the application for, the award of, the administration of, and the discontinuation of benefits under section 207-a of the General Municipal Law (hereafter referred to as "GML 207-a"). This policy is not intended to limit or eliminate any additional requirements or benefits regarding GML 207-a set forth in the statute or case law, or to modify any requirements set forth in the Rules and Regulations for the Bureau of Fire of the City of Utica to the extent that such Rules and/or Regulations are not inconsistent with this procedure.

#### **Section 2: EMPLOYER**

For the purpose of this procedure, the employer shall be referred to as the Public Safety Commissioner or Deputy Public Safety Commissioner. Nothing in this procedure is intended to limit the right of the employer to designate a person other than the Public Safety Commissioner or Deputy Public Safety Commissioner to receive applications or initially decide entitlement to benefits. In the event that someone other than the Public Safety Commissioner or Deputy Public Safety Commissioner is designated to receive applications or render initial determinations, the employer will prominently publish the name of the individual who receives applications or renders initial decisions.

#### **Section 3: NOTICE OF DISABILITY**

(a) A member or anyone acting on his behalf, shall notify the Shift Commander as soon as possible, which, under normal circumstances, will be within 24 hours of any exposure, injury or reinjury or sickness claimed to have been incurred in the performance of his duties and which necessitates medical or other lawful remedial treatment; this initial notification must be in writing.

(b) A formal Application for GML 207-a benefits must be made within 72 hours using the annexed Application Form (Form 1). The failure to either timely report the injury/illness or complete a timely Application may be considered by the decision maker on any application.

(c) An Application shall be deemed "untimely" unless it is received by the Public Safety Commissioner or Deputy Public Safety Commissioner's office within the 72 hour period. In the case of a claimed illness, the Application form must be filed within 72 hours of knowledge or claimed belief that the illness is causally related to the performance of duty. The Public Safety Commissioner or Deputy Public Safety Commissioner or designee may, in his/her discretion, excuse the failure to file the application within the stated time period upon a showing of good cause.

(d) The Application must include a statement from the applicant's treating physician, which may include the Fire Surgeon. Upon filing, the applicant will be given a copy of the Application stamped with the date of receipt.

(e) Notice of claimed disability must also be filed with the New York State Retirement System. Form 2 must be completed and submitted with the Application.

#### **Section 4: APPLICATION REVIEW**

(a) The Firefighter shall provide medical authorization, in the form of a Medical Release (attached Form 3), authorizing the Public Safety Commissioner or Deputy Public Safety Commissioner or designee to obtain copies of those medical records related to the claim.

(b) The Public Safety Commissioner or Deputy Public Safety Commissioner or designee shall have the right to require the applicant to submit to one or more medical examinations as provided by law.

(c) In all circumstances, the Public Safety Commissioner or Deputy Public Safety Commissioner or designee will provide the applicant with a copy of all medical reports he/she receives.

(d) All medical information received will remain confidential and shall not be used or released except for those purposes authorized by this Procedure, including any hearing under Section 10.

(e) The Public Safety Commissioner or Deputy Public Safety Commissioner or designee shall have exclusive authority to initially determine the applicant's eligibility for benefits under GML 207-a. The Public Safety Commissioner or Deputy Public Safety Commissioner or designee shall have the authority to conduct a full investigation of the facts concerning the Application (including but not limited to requiring the applicant to provide a more detailed statement of the events, gather witness statements and/or send the applicant for medical review). All parties will mutually exchange records and documents obtained or relied on during the investigation and initial determination process.

#### **Section 5: STATUS PENDING DETERMINATION FOR ELIGIBILITY**

(a) Pending the initial determination of an application, time off taken by the applicant after submission of said Application and alleged to be attributable to the injury or sickness which gave rise to the claim for GML 207-a benefits shall be charged to sick leave. If the member exhausts sick leave, he/she shall be advanced sick leave until an initial determination is made.

(b) In the event the employee is found to be eligible for GML 207-a benefits, the employee will have all used sick leave credits restored.

(c) In the event the employee is denied GML 207-a eligibility and either the employee does not appeal or after appealing the denial, the denial of benefits is upheld, the

employee will reimburse the City in time (sick or vacation time) or money, at the option of the employee, for any sick leave time advanced.

#### **Section 6: BENEFIT DETERMINATION**

(a) The Public Safety Commissioner or Deputy Public Safety Commissioner or designee shall render a written decision on the Application for benefits as soon as practicable but in no event later than twenty-one (21) calendar days after receipt of all necessary information as indicated above. In the event that a written decision is not issued within twenty-one (21) calendar days, the applicant will be placed on administrative leave with pay pending receipt of the written decision.

(b) A copy of the decision shall be mailed to the applicant at the address specified in the Application.

(c) If the initial decision is that the applicant is eligible for GML 207-a benefits, then the applicant shall be so categorized and pursuant thereto any time off taken due to such injury or sickness (upon a showing of a causal connection to the original claim) shall be charged to GML 207-a leave. The member's GML 207-a benefits shall continue so long as the member remains eligible.

(d) The decision, if a denial, must set forth the basis for said denial.

(e) In the event the applicant is not satisfied with the decision and wishes to appeal the decision, an appeal may be taken pursuant to Section 10 of this procedure.

#### **Section 7: RIGHT TO PERPETUAL REVIEW**

(a) The Public Safety Commissioner or Deputy Public Safety Commissioner or designee may periodically review cases of members receiving GML 207-a benefits for the purpose of determining whether the individual continues to be entitled to GML 207-a benefits, and in furtherance thereof may take such action as is appropriate under the law or this Procedure.

(b) Any individual who is receiving benefits under GML 207-a continues to be subject to provisions set forth in the Department's Book of Rules and departmental orders concerning notification to the Department of the member's condition.

#### **Section 8: TERMINATION OF BENEFITS**

(a) Upon receipt of a certification from the Department Surgeon, or a physician-designee, that may include a physician designated through the Workers' Compensation process, that a member is able to perform the full duties of his/her position, the Public Safety Commissioner or Deputy Public Safety Commissioner or designee shall notify the member of the termination of his GML 207-a benefit. The Public Safety Commissioner or Deputy Public Safety Commissioner or designee shall cause service of a written notice of termination setting forth the effective date thereof and attaching a copy of the physician certification.



(b) The Public Safety Commissioner or Deputy Public Safety Commissioner or designee may, in his discretion, accept the opinion of the employee's personal physician that an employee is able to return to full duty consistent with the City's standards, in which case there shall be no appeal of the termination of GML 207-a benefits.

(c) If the member disagrees with the termination of the GML 207-a benefits, he may serve upon the Public Safety Commissioner or Deputy Public Safety Commissioner or his designated representative, within ten (10) calendar days after the receipt of the Public Safety Commissioner or Deputy Public Safety Commissioner's or designee's notice, a written appeal for review of the decision to terminate benefits, specifying the basis for the appeal. If the basis for the appeal is that the member disagrees with the Department physician's determination, he/she will attach to his/her appeal a medical report supporting his/her position. If the appeal does not contain a medical report sustaining the member's contention, the initial determination to discontinue the benefits shall stand as of the date of that determination. The member, if unable to return to full duty, will be placed on sick leave status.

(d) Upon receipt of a timely written appeal of the Public Safety Commissioner or Deputy Public Safety Commissioner or designee's decision to terminate GML 207-a benefits, the Public Safety Commissioner or Deputy Public Safety Commissioner or his designee shall reexamine all information considered in connection with review of the member's GML 207-a status. The member may submit additional documents concerning his GML 207-a status to the Public Safety Commissioner or Deputy Public Safety Commissioner or his designee. The Public Safety Commissioner or Deputy Public Safety Commissioner or his designee may require the production of additional information concerning the member's GML 207-a status and/or may conduct an information conference with the member. The Public Safety Commissioner or Deputy Public Safety Commissioner or his designee shall render a written decision on the appeal of the initial decision to terminate GML 207-a benefits no later than ten (10) calendar days after receipt of all necessary information required.

(e) In the event the applicant is not satisfied with the final decision at the Public Safety Commissioner or the Deputy Public Safety Commissioner's level and wishes to appeal the decision, an appeal may be taken pursuant to Section 10 of this procedure.

(f) GML 207-a benefits shall terminate upon the employee being retired pursuant to an accidental disability retirement or a performance of duty disability retirement as set forth in the Retirement and Social Security Law. Nothing herein shall preclude the continuation of GML 207-a.2 benefits, if appropriate, in accordance with prevailing case law.

## **Section 9: ASSIGNMENT TO LIGHT DUTY**

(a) As authorized by the provisions of Subdivision 3 of Section 207-a, the Department, acting through the Commissioner of Public Safety or designee, may assign a disabled firefighter specified light duties, consistent with his/her status as a firefighter. The Commissioner of Public Safety or designee, prior to making a light duty assignment, shall advise the firefighter receiving benefits under GML 207-a that his/her ability to perform a light duty assignment is being reviewed. Such a firefighter may submit to the Commissioner of Public Safety or designee, any document or other evidence in regard to the extent of his/her disability. The Commissioner of Public Safety or designee, may cause a medical examination or examinations of the firefighter, to be made at the expense of the City. The physician selected, the firefighter and his/her physician, shall be provided with the list of duties and activities associated with a proposed light duty assignment. The City's physician shall make an initial evaluation as to the ability of the disabled firefighter to perform certain duties or activities, given the nature and extent of the disability. If the firefighter's physician does not agree that the firefighter is medically able to perform the light duty assignment, he must express, in writing, those elements of the light duty assignment which the employee cannot perform and the specific medical reasons which preclude the firefighter from performing the duties. If there is a disagreement between the City's physician and the firefighter's physician as to the firefighter's fitness to perform one or more portions of the duties of the light duty assignment, those portions cannot be assigned until the dispute is resolved pursuant to Section 10.

(b) If the member refuses an assignment to light duty and fails to provide medical documentation to support said refusal, GML 207-a benefits will cease.

(c) A member may appeal the cessation of benefits in accordance with this Procedure.

(d) It is understood that assignment to light duty is temporary and that a firefighter so assigned does not have any entitlement to a continued light duty assignment for an indefinite duration of time.

(e) Nothing contained herein shall require the City to create light duty assignments.

## **Section 10: DISPUTE RESOLUTION PROCEDURE**

(a) In the event that the decision maker denies an Application for Section 207-a benefits, seeks to discontinue Section 207-a benefits, there is a dispute about whether a firefighter is capable of performing a specific light duty assignment, or there is an issue with respect to outside employment, the matter will be submitted directly to arbitration pursuant to the rules of the Public Employment Relations Board. The Demand for Arbitration must be submitted within fifteen (15) business days.

(b) The determination of the arbitrator shall be final and binding on the City and the firefighter, but shall not preclude further review at a subsequent date based upon new or supplemental medical or other information.

(c) The cost of arbitration shall be borne equally by the City and the firefighter.

(d) In the case where an employee is appealing the denial of an award of 207-a benefits, either as a result of an initial injury or illness or the recurrence of an injury or illness the burden of proof shall be on the employee and will constitute a preponderance of the evidence. In the case where the City has made a determination that the employee is no longer eligible for a 207-a benefit or that the employee is eligible to work light duty, the burden of proof shall be on the City and shall be by a preponderance of the evidence.

(e) The Arbitrator shall have no right to amend, modify, nullify, ignore, add to, or subtract from the provisions of this procedure. The Arbitrator shall have no authority to make a decision on any issue not submitted or raised by the parties.

#### **Section 11: DISABILITY RETIREMENT**

Consistent with Section 207-a, the City may file an application on the firefighter's behalf for retirement under Sections 363 or 363-c of the New York State Retirement and Social Security Law. Any injured or sick firefighter who is receiving 207-a benefits shall permit reasonable medical inspections in connection with such an application for accidental disability retirement or performance of duty disability retirement. Failure to cooperate will result in the termination of GML 207-a benefits.

#### **Section 12: CONTINUATION OF CONTRACT BENEFITS**

For the first nine (9) months of leave pursuant to GML 207-a, a firefighter will continue to accrue all contract benefits. Beginning in the tenth (10<sup>th</sup>) month, the firefighter shall not accrue any contract benefits except for wages, applicable longevity and continued health insurance benefits. In the event that the firefighter is assigned to light duty (pursuant to Section 9, above), the firefighter will be entitled to all contractually negotiated fringe benefits with respect to holidays, clothing, vacation, sick leave, etc.

#### **Section 13: OUTSIDE EMPLOYMENT**

If, as a result of an investigation, the Commissioner of Public Safety or designee determines that a firefighter receiving benefits pursuant to GML 207-a has engaged in paid outside employment, the Commissioner of Public Safety or designee shall provide written notice of such determination. The notice shall specify in detail any and all reasons and the factual basis for those reasons for the determination. The firefighter may appeal the determination pursuant to Section 10 herein. The arbitrator shall have the authority to determine the amount of benefits to be reimbursed, if any, and direct the manner in which such reimbursement shall be made. The City, upon request, must be provided with a W-2 form or tax returns or other proof other than sworn statements by the firefighter. The firefighter may redact irrelevant information from the income tax information requested by the City, e.g., spousal income.

#### **Section 14: HAZARDOUS EXPOSURE**

A firefighter, who reasonably believes he or she may have been exposed to a health hazard, e.g., AIDS, Hepatitis-B, biological or chemical toxins, etc., as a result of the performance of his or her duties, may file a hazardous exposure incident form (*see* Form 4) at the time of the exposure. The exposure form will be maintained by the City in the firefighter's personnel file.

If a firefighter claims a job-related injury due to exposure to a health hazard, then he or she must comply with the Notice of Disability filing requirements of Section 3 as well as the other requirements of this procedure.

#### **Section 15: REPRESENTATION**

An applicant hereunder may have a representative of his choosing at any stage of this procedure.

#### **Section 16: SEPARABILITY CLAUSE**

In the event that any article, section or portion of this procedure is found to be invalid by a decision of a tribunal of competent jurisdiction, then such specific article, section or portion shall be of no force and effect, but the remainder of this procedure shall continue in full force and effect. Upon the issuance of a decision invalidating any article, section or portion of this procedure, either party shall have the right immediately to reopen negotiations with respect to a substitute for such invalidated article, section or portion of this provision.

#### **Section 17: EFFECTIVE DATE**

This procedure shall take effect upon ratification by the parties and shall apply to any claim of entitlement to or use of GML 207-a benefits made after that date. In the event utilization of GML 207-a benefits after said date is based on an injury in the performance of duty or sickness as a result of the performance of duty which allegedly occurred prior to the ratification by the parties, the member shall comply with the terms of this agreement, within thirty (30) days of ratification of this agreement. Upon the filing of a claim pursuant to Section 4, the claim for utilization of GML 207-a based on a prior injury or illness shall be decided in accordance with the terms of this procedure. If there is a dispute as to the date of occurrence of this injury or sickness, the member shall have the burden of proof by a preponderance of the evidence that the injury in the performance of duty or sickness as a result of performance of duty occurred prior to the date of ratification by the parties.

## **Section 18: MUTUAL EXCHANGE OF RECORDS**

At all steps of this procedure the parties will mutually exchange all relevant documents, including all relevant medical records. Upon reasonable advance notice, the parties may be required to provide reasonably required medical updates.

FORM I  
City of Utica Fire Department  
General Municipal Law Section 207-a  
Application

1. \_\_\_\_\_  
Name of firefighter

2. \_\_\_\_\_  
Address

3. \_\_\_\_\_ 4. \_\_\_\_\_  
Telephone number Age

5. \_\_\_\_\_  
Name of supervisor

6. \_\_\_\_\_  
Current job title

7. \_\_\_\_\_  
Occupation at time of injury/illness

8. \_\_\_\_\_  
Length of employment

9. \_\_\_\_\_ 10. \_\_\_\_\_ 11. \_\_\_\_\_  
Date of Incident Day of Week Time

12.a. \_\_\_\_\_  
Name of witness(es)

b. \_\_\_\_\_

c. \_\_\_\_\_

13. Describe what the firefighter was doing when the incident occurred. (Provide as many details as possible. Use additional sheets if necessary). \_\_\_\_\_

\_\_\_\_\_

14. Where did the incident occur? Specify. \_\_\_\_\_

15. How was the claimed injury or illness sustained? (Describe fully, stating whether injured person slipped, fell, was struck, etc., and what factors led up to or contributed. Use additional sheets if necessary.) \_\_\_\_\_

16. When was the incident first reported? \_\_\_\_\_

To whom? \_\_\_\_\_ Time \_\_\_\_\_

Witness (if any) \_\_\_\_\_

17. Was first aid or medical treatment authorized? \_\_\_\_\_

By whom? \_\_\_\_\_ Time \_\_\_\_\_

18. Name and address of attending physician \_\_\_\_\_

19. Name of hospital \_\_\_\_\_

20. State nature of injury and part or parts of body affected \_\_\_\_\_

21. Will the officer be returning to duty? \_\_\_\_\_

When? \_\_\_\_\_

\_\_\_\_\_  
Date of report

\_\_\_\_\_, New York

\_\_\_\_\_  
Signature of injured officer